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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,264	12/22/2000	Stephen John Blanchard	PPC-775	9836

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Philip S. Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003

EXAMINER

WEBB, JAMISUE A

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 11/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/746,264

Applicant(s)

BLANCHARD ET AL.

Examiner

Jamisue A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 October 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 5, 6, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Glassman (4,758,240).
3. With respect to Claims 1 and 10: Glassman discloses the use of a sanitary napkin (see Figure 2), with a main body portion, a topsheet (19), backsheet (24), and an absorbent core (15). The napkin having two longitudinal and two transverse edges, a central region, front end region and a rear end region (See Figures 2-4). Glassman discloses more than two longitudinal hinges (18, 12a) located substantially in the center region and is located between the central longitudinal axis and the longitudinal edges (see Figure 2), is capable of bending, therefore providing a bending axis, and where one hinge is curved and one hinge is strait. (see Figure 2).
4. With respect to Claim 3: See Figure 2.
5. With respect to Claims 5 and 6: See column 4, lines 15-34.
6. With respect to Claim 11: Glassman discloses multiple hinges (18) that are curved and the inner one and outer one having different radius. (see Figure 2).

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***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 2, 4, 7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glassman (4,758,240).

10. With respect to Claim 2 and 4: Glassman discloses the claimed invention except for the strait line being towards the outside of the napkin and the curved line being towards the inside of the article. It would have been an obvious matter of design choice have the strait line towards the outside of the napkin and the curved line being towards the inside of the article, since applicant has not disclosed that the strait line towards the outside of the napkin and the curved line being towards the inside of the article solves any stated problem or is for any particular purpose and it appears that the invention

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would perform equally well with the strait line towards the center of the napkin and the curved line towards the outside.

11. With respect to Claim 12: Glassman discloses the claimed invention except for the first hinge having a lower radius of curvature than the second hinge. It would have been an obvious matter of design choice have the first hinge having a lower radius of curvature than the second hinge, since applicant has not disclosed that the first hinge having a lower radius of curvature than the second hinge solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the first hinge having a greater radius of curvature than the second hinge.

12. With respect to Claim 7: Glassman discloses that the hinges/channels are formed by compressions in the absorbent material, therefore forming densified areas (column 4, lines 23-27). Glassman's grooves have a density, however Glassman does not disclose the specific density of over 0.5 g/cm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the density of the grooves, be greater than 0.5 g/cm, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205USPQ 215 (CCPA 1980).

13. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glassman (4,758,240) in view of Coles et al. (5,672,642).

14. With respect to Claim 8: Glassman, as disclosed above for claim 1, fails to disclose densified end channels. Coles discloses the use of longitudinal hinges, with barrier end channels (17), that are regions of the core that wax is applied to, it is the

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examiner's position that wax is denser than core material, and therefore form dense channels. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the sanitary napkin of Glassman, include densified end channels, as disclosed by Coles, in order to prevent end soiling at the edges of the napkin (see Coles, column 1 and 2).

With respect to Claim 9: Coles discloses the side channels and end channels being more than 3mm apart. (See figure 3).

### ***Response to Arguments***

15. Applicant's arguments filed 10/28/02 have been fully considered but they are not persuasive.

16. With respect to Applicant's arguments that Glassman does not teach the hinges being located "substantially within the central region": Glassman teaches that over 50% of the hinge's length is located within the central region, therefore substantially within the central region. Furthermore the only limitations in the claims that define where the central region ends and where the end region (e.g. rear end region) begins is as long as the rear end regions "covers at least a portion of the women's posterior perineum".

Therefore the beginning of the end region of Glassman can be defined where the hinges end, therefore the hinges would be located fully within the central region.

17. With respect to applicant's arguments that Glassman only shows the hinges terminating at the longitudinal edges of the article: The only figures where the longitudinal hinges are shown to terminate at the longitudinal edges are Figure 1 and 10, all other Figures show the hinges terminating well before the longitudinal end edges.

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18. With respect to applicant's argument that Glassman does not teach the longitudinal hinges to function as bending axis: a "hinge" is a structural limitation is functions as a bending axis. Glassman discloses a hinge, which is structurally the same as the "hinge", as defined by the claims. Therefore the hinges of Glassman are fully capable as functioning as a bending line, and capable of allowing the sides to bend upwards and downwards.

19. With respect to Applicant's arguments with regards to the 103(a) rejections currently present in the case: the applicant is basing these arguments on the belief that Glassman's grooves are terminated at the longitudinal edges of the article. As stated above Glassman clearly shows the grooves terminating well before the longitudinal hinges, therefore arguments are not persuasive. Rejections stand as stated above.

### *Conclusion*

20. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703)308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw

November 2, 2002



DENNIS RUHL  
PRIMARY EXAMINER